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Ser. No. 09/399,578
Atty. Ref. AIS-P1-99
Art Unit 2145

I. REMARKS

In response to the Restriction Requirement, Applicant provisionally elects Group I with traverse, and respectfully requests reconsideration.

First, it is respectfully submitted that a proper showing has not been made that these are related as combination / sub-combination. Claim 435 is the apparatus analog to its method claim 1, and claim 435 must be searched in order to carry out the examination of claim

1. Normally apparatus and method claims are not restricted as separate and distinct.

Second, graphic and user identities mentioned in the Office Action as distinguishing Group II are in claim 1 of Group I. Further, dependent claims of Group I pertain to an image as in Group II. Thus, the claims of Group II must be searched when examining Group I.

The PTO has not shown, pursuant to MPEP Sec. 802, that claims are independent and distinct and have separate utility. More so, even if they are separate and distinct, there is "a serious burden on the Examiner if restriction is required (see MPEP Section 803.02, Section 806.04(a) - Section 806.04(i), Section 808.01(a), and Section 808.02)." And pursuant to GUIDELINES found there, "examiners must provide reasons and/or examples to support conclusions." The Examiner has not provided sufficient "reasons and/or examples to support conclusions" as required by the MPEP.

In sum, the Examiner has not established that these Groups are separate and distinct and has not established that a search of one would not require a search of the other.

APPLICANT CLAIMS LARGE ENTITY STATUS. The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235, and if any extension of time is needed, this shall be deemed a petition therefore.

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Please direct all communication to the undersigned at the address given below.

Respectfully submitted,


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